Supreme Court, U.S.
FILED

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No. _____

In The
Supreme Court of the United States

John Gossett, petitioner
v.
Duke University,
respondent
and
Dunhill of Cary Inc.,
respondent

On Petition For A Writ Of Certiorari To The
United States Court Of Appeals For The Fourth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

Is a natural born U.S. citizen required to obtain a social security number? Obviously a citizen must acquire this number in order to register for the voluntary public welfare program known as Social Security, but is this number required of a citizen who does not participate in Social Security?

Is a natural born U.S. citizen in possession of a legal state-issued birth certificate and a current U.S. Passport required to present a social security number to an employer in order to be employed in the United States? If so, what is the specific statute that so states such a requirement? And is such a requirement to be interpreted as saying it is illegal for a U.S. citizen to work in the U.S. without a social security number?

How can a natural born U.S. citizen enforce his right not to participate in Social Security while exercising his right to work and be justly compensated in an effort to support himself and his family in their pursuit of life, liberty and happiness?

When a person expresses that he has a sincere religious belief that prevents him from participating in Social Security and obtaining a social security number to an employer who has already hired him based on his verified skills, character and experience, is that employer discriminating against him because of his religious belief if they dismiss him specifically on the basis of not producing a social security number?

Because there are specified steps to implement less restrictive means that in no way cause any hardship to any employer of any size for employing a person who does not have a social security number, is the employer legally justified in refusing

employment to someone they have already hired for the sole reason that he does not have a social security number?

How can a natural born U.S. citizen enforce his sovereign right to work in order to support himself and his family without providing a social security number to an employer?

CONTENTS

Questions Presented for Review..... i

Table of Contents..... iii

Citation of Opinions..... 1

Basis for Jurisdiction in this Court..... 2

Constitutional Provision and Statutes Employed in this Case..... 3

Statement of the Case..... 4

Reasons for Granting the Writ..... 12

Appendix..... A-i

CITATIONS OF OPINIONS

Gossett v. Duke University

and

Gossett v. Dunhill of Cary Inc. (4th Cir. 2000)

Gossett v. Duke University

and

Gossett v. Dunhill of Cary Inc. (U.S. Court of Appeals, 2001)

BASIS FOR JURISDICTION IN THIS COURT

The judgment of the United States Court of Appeals for the Fourth Circuit, which is the subject of this Petition, was entered on March 19, 2001 and affirmed the District Court's dismissal of all charges. This Court has jurisdiction to review the decision of the Fourth Circuit Court of Appeals by writ of certiorari pursuant to 28 U.S.C. 1254(1).

CONSTITUTIONAL PROVISION AND STATUTE INVOLVED IN THE CASE

Amendment I, Constitution of the United States
Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Title VII of the Civil Rights Act of 1964
UNLAWFUL EMPLOYMENT PRACTICES
SEC. 2000e-2. [Section 703]
(a) It shall be an unlawful employment practice for an employer -
(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or. ...

STATEMENT OF THE CASE

These two cases have not been addressed in the perspective of the law or the U.S. Constitution. These cases have been treated according to beliefs somehow perpetrated upon the people of this land and enforced by a judiciary that uses its power to create law rather than rule upon a law and its Constitutional foundation where basic common sense in itself should be sufficient to understand the difference in right and wrong.

That belief system says that all people of this land are bound to be numbered by a number that is managed and administered by the Social Security Administration. That number carries more leverage than its original intent, which was to be registered in the public welfare program known as Social Security. That program was voluntary since its beginning, and it remains voluntary. No law has been written that requires a citizen to participate in that program known as Social Security. However, the Internal Revenue Service (IRS), the banking industry, and most other government and financial institutions have usurped the right to require this number of all citizens of this nation to be identified for and in all aspects of life.

Now the U.S. District Court (4th District) and the U.S. Court of Appeals have both ruled that the federal government requires a social security number of all U.S. citizens. Such a U.S. citizen, as their ruling states, must have a social security number (SSN), i.e., they are claiming that the federal government requires an SSN for all citizens. The case now before the U.S. Supreme Court, if this case be selected for consideration, is to question how either of these lower courts may determine that the federal government requires all citizens to be numbered.

The assumption that all U.S. citizens must have and use an SSN is applicable to these cases in more specific terms, i.e., what the courts are saying is that a citizen cannot be employed without the SSN. The claims affirmed by the courts to support their ruling that an employer is not at fault for requiring an SSN, regardless of the circumstances, is more general than employment alone. The basis of their ruling is stated as such that all citizens are required to possess an SSN.

We of course know they are not saying that a wealthy person who does not need to be employed does not require a SSN, because that would be discriminatory against all people who are not wealthy and need to be employed in favor of the wealthy for whom employment is superfluous. Of course, those same favored people may find difficulty acquiring investments and bank accounts without this number. But the point of conflict has arisen and continues to arise for the petitioner, namely John Gossett, when employment and an employer of relative significance are involved.

The U.S. District Court, affirmed by the U.S. Court of Appeals, so states that the employer in both cases are required by the federal government and by federal law to request an SSN from all employees and to use this number to report to the federal government. What the courts are doing is using the term "federal government" to loosely refer to something that has neither form nor legal foundation. The Social Security Administration is a federal agency, so why could they not be called the federal government? This agency is not authorized or empowered to require citizens to participate, so how can the courts affirm that the federal government requires an SSN?

Another federal agency that specifically supports the right of a U.S. citizen not to participate in Social Security and not to

have or use an SSN is the federal agency known as the Equal Employment Opportunity Commission (EEOC). Their central legal team in Washington, D.C. has ruled that participation in Social Security or use of an SSN is not required, and this agency has investigated these cases, finding both defendants guilty of Title VII discrimination. This organization is as legitimately the "federal government" as any, yet the Court still says that the federal government requires the defendants by law to force all their employees, specifically plaintiff, to submit an SSN in order to be employed.

The U.S. Postal Service, while perhaps not quite a federal agency, is bound to perform its contractual duties under the same regulations as when it operated as the federal government. This agency has conceded that a candidate for employment is not required to have or use an SSN, at least when there is a religious objection. The U.S. Postal Service has taken steps to reform their handling of such cases and has posted a notice in their Greensboro, NC office that discrimination occurred and was resolved over this issue with the candidate being allowed to test and be considered for employment without an SSN (Gossett v. U.S.P.S., 2001).

Even the Internal Revenue Service (IRS) has failed to object to plaintiff's method of reporting without an SSN in the many instances where he has been employed not using the number. Plaintiff has produced a letter as evidence from IRS counsel stating that an employer does not use an individual's SSN when reporting and depositing quarterly income taxes, so their position is clearly that an SSN is needed neither for withholding nor paying income taxes (they do note that filing an income tax return may not be nearly as convenient or effective as it would if an SSN were used because allocating

deposited taxes without an enumerator causes tracking of funds for return to be much more difficult).

The fear of action by the IRS is the basis of both defendants' arguments, though evidence is clear in demonstrating that neither defendant was aware of such action. Evidence further demonstrates that both defendants fired the plaintiff after thorough interviewing, checking of references and verifications of character and experience simply because he did not have an SSN. However, their legal counsel have argued their cases brought against them by plaintiff saying that the hardship supposedly faced by them in not having an SSN from plaintiff would be a penalty charged by the IRS for failing to comply with what is being called federal law and the federal government. The law does state that a fine of $50 may be imposed for failing to request an SSN, but there is no law written that states that a U.S. citizen must have an SSN in order to be employed. A fine of $50 could easily be argued as considerably less than an undue hardship, particularly since providing the IRS proof is extremely simple through the use of a registered form letter that plaintiff provides to his employers. In no case has the IRS ever taken action against any of plaintiff's previous employers for following this practice.

Another position stated in the opinion of the U.S. District Court is that 26 U.S.C. 6109 states in mandatory language that an SSN must be obtained by the employer. This is a critical issue in these cases, and is stated as an assumption. Yet the IRS does not enforce this interpretation as law. This is not a rule of law, but rather an assumption resulting from a belief system supporting and benefiting the IRS. Furthermore, it is not Constitutional according to the First Amendment to force a citizen to use an SSN if his religious belief specifically forbids it. But the greater issue is that the plaintiff objects to this

interpretation of law as being incorrect, unintended by the framers of this law, and irrelevant because the it applies only to citizens who voluntarily already participate in Social Security. It does not apply to citizens who choose not to participate in Social Security without regard as to whether they object to participation on the basis of their religious belief.

Finally, that the IRS can require a citizen to participate in Social Security and use an SSN is impractical, illegal, even absurd. This number known as the SSN does not fall within the jurisdiction of the IRS. Thus, the assumption of the District Court is supported by U.S. Code known as the IRS Code. The IRS only is allowed legal authority over citizens if they choose to voluntarily participate in Social Security and submit an SSN according to regulations stipulating a policy based participating in Social Security.

The U.S. District Court decision further acknowledges that plaintiff argues that 26 C.F.R. 301.6109-1© allows an employer to submit in place of the SSN a signed affidavit explaining the employer could not obtain the SSN. The court then ruled that this section only applies to foreign persons. Plaintiff of course is a U.S. citizen; that has never been a question. In fact, plaintiff produced both a North Carolina Certificate of Birth and a U.S. Passport, which has been acquired from the U.S. Department of State not using an SSN (thus, this agency too of the federal government does not require an SSN). But the court has incorrectly interpreted that this statement does not apply to citizens, again based on a false assumption. If such a right is available to an alien, how much more should this right be available to a citizen? This very critical issue must be clearly interpreted in favor of a citizen, especially since there is no law or language ever saying that a citizen may not exercise this basic right provided even for an

alien. Simply because no language is provided supporting a citizen's right in this regard, justice cannot allow the assumption to be made and administered as law that says this right does not belong to a citizen because it is not specifically assigned to the people. When the rights of the people, meaning the citizens of the United States, are concerned, by definition of the U.S. Constitution, the assumption can only be made in favor of the people. Any role, responsibility, right, decree, regulation, policy or law of the government, even the federal government, must be specifically provided in detail with no assumption. In their decision to dismiss the two cases in question, the U.S. District Court has reversed the intent of the Constitution and the laws that must remain consistent with it, and the U.S. Court of Appeals has supported this reversal in its affirmation of the District Court decision.

Finally, the U.S. District Court decision states that to establish a prima facie case for religious accommodation under Title VII, a plaintiff must prove three elements: (1) a bona fide religious belief that conflicts with an employment requirement; (2) the employer knew about the religious belief; (3) the employee suffered an adverse employment action for failing to comply with the employment requirement. Not only has the evidence shown that these three necessities were clearly met, but there is no dissension from either defendant on the second and third. The court then based its decision on two things: First, a number of other cases cited ruled in this fashion, and second, they are saying that the requirement for an SSN is a government requirement rather than an employer requirement. While both defendants and the court failed to recognize the essence of the plaintiff's religious belief, they did acknowledge it existed and even managed to capture one element of it. No one has disagreed that firing is an adverse action. The issue remains then that plaintiff asked for accommodation of his

religious belief, and the employers refused. Their refusal was discriminatory because they questioned plaintiff's belief and showed resentment and hostility towards him. Both dismissals from employment occurred not because the defendants knew the law and wished to uphold it. They both displayed behavior characterized by indignity, suspicion, accusation and resentment that a new employee would ask for any special accommodation. Even if the requirement of an SSN were legitimately a legal requirement of the "federal government," which this case is deciding, both defendants acted without knowledge of such requirement. At best they acted based on a belief system perpetrated illegally by the IRS and supported by the judiciary, which labels prejudicially all people as tax protesters who in any way question the legality of accepted practices that both the accounting and legal professions uphold in a kind of complicity wrought as much of ignorance and fear as by the convenience of supporting IRS collection procedures. Only later, well into the legal process, after an EEOC investigation ruled in favor of plaintiff in both cases and plaintiff filed suit against both defendants was this issue of "government requirement v. employment requirement" imposed.

The legal counsel of the defendants, the District Court and the Court of Appeals are saying they have no choice but to require the SSN of all employees. The Constitution, U.S. Code, the Code of Federal Regulations, and the plaintiff are saying there is no requirement for an SSN if a citizen does not participate in Social Security and has a religious belief that prevents him from participating in that voluntary welfare program. What the U.S. Supreme Court must decide is whether an employer is guilty of discrimination under Title VII when they are subscribing to an accepted belief system that has been fraudulently perpetrated upon the public and is being enforced

by the judiciary as well as the legal and accounting professions. In other words, defendants Duke and Dunhill didn't know any better than to blindly follow a common but fallacious belief that anything, be it any practice or any belief, that does not fully and conveniently align with the maximum collection of taxes by the IRS is to be suspect as illegal and undesirable. Plaintiff maintains they are guilty of discrimination because they failed to allow for accommodation that is commonly used and accepted by the IRS, because they were informed of less restrictive means they could easily use without liability, because they acted out of hostility and resentment toward the plaintiff, and because their case is based on an assumption that the federal government, whoever they may be, requires an SSN for every citizen in the United States in order to be a citizen and in order to be employed.

REASONS FOR GRANTING THE WRIT

This case involves the Constitutionality of any law or policy that places the blame on the victim of an unfair and discriminatory dismissal from employment, especially when that policy is assumed by the U.S. District Court and affirmed by a U.S. Court of Appeals, saying that a requirement to demand a social security number from a U.S. citizen is a requirement of the federal government and not of the employer.

This case further involves the fundamental question of whether a U.S. citizen is required by law and by the Constitution to participate in Social Security. Furthermore, if a U.S. citizen does not participate in Social Security, that citizen should necessarily be allowed to earn a fair living through the exchange of his effort and experience for just compensation. Finally, the U.S. Constitution must protect the rights of a U.S. citizen to exercise his sincerely held religious belief that restricts his participation in a public welfare program and the use of a universal identifier such as the social security number.

The Court should accept this case to establish uniform guidelines for not participating in Social Security for U.S. citizens who object to participating in that public welfare program, especially if for reasons of religious belief, and for protecting that right in the face of phenomenal prejudice and libelous treatment by employers. This First Amendment right has been trampled on by the lower courts in favor of a manipulated belief shared by employers, professional accountants and attorneys in the United States, perpetrated by the Internal Revenue Service in their efforts to usurp their dependence on the social security number in expediting collections of Federal Income Tax at the expense of fair

practice, reason and individual rights. In so doing, the Constitution of the United States is compromised in a general sense and the provisions for individual freedom and free exercise of religious belief in this nation completely ignored.

RESPECTFULLY SUBMITTED this 19th day of June, 2001.

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APPENDIX

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JOHN GOSSETT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	1:99CV00985
	)	
DUKE UNIVERSITY MEDICAL CENTER,	)	
	)	
Defendant.	)	

JOHN GOSSETT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	1:99CV01008
	)	
DUNHILL OF CRY, INC., d/b/a, DUNHILL PROFESSIONAL SEARCH OF WEST RALEIGH,	)	
	)	
Defendant.	)	

JUDGMENT

OSTEEN, District Judge

For the reason stated in the memorandum opinion filed contemporaneously herewith,

IT IS ORDERED that the Defendants Duke University and Dunhill of Cary, Inc.'s motions to dismiss [Doc. @15 in 1:99CV00985; Doc. #10 in 1:99CV01008, respectively] are granted.

IT IS FURTHER ORDERED that Plaintiff John Gossett's Motion to Transfer Venue [Do. #8 in 1:99CV01008] is denied.

IT IS FURTHER ORDERED that Defendant Duke University's motion to dismiss the original complaint [Doc. #6 in 1:99CV00985] is denied as moot.

This the 14th day of August, 2000.

Signed, J. L. Osteen
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JOHN GOSSETT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	1:99CV00985
	)	
DUKE UNIVERSITY	)	
MEDICAL CENTER,	)	
	)	
Defendant.	)	

JOHN GOSSETT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	1:99CV01008
	)	
DUNHILL OF CARY, INC.,	)	
d/b/a, DUNHILL	)	
PROFESSIONAL SEARCH	)	
OF WST RALEIGH,	)	
	)	
Defendant.	)	

MEMORANDUM OPINION

OSTEEN, District Judge

Plaintiff John Gossett (Gossett) filed an action against Defendant Duke University (Duke), 1:99CV00985, alleging Duke violated his rights under Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C.2000 (e) et seq., by firing him because of his religious beliefs. Gossett also claimed Duke wrongfully terminated him in violation of North Carolina's public policy under North Carolina General Statute 143-422.2. Gossett filed a similar lawsuit against Defendant Dunhill of Cary, Inc. (Dunhill), 1:99CV01008, alleging violations of Title VII and state law. Due to the similarity of the claims and facts contained in each complaint, the court will consolidate the two cases for purposes of the motions to dismiss.

These cases are now before the court on Duke's Motion to Dismiss Plaintiff's Amended Complaint under Federal Rule of Civil Procedure 12 (b) (6) and Dunhill's Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12 (b) (1) and (6). Gossett filed a Motion to transfer Venue in the case against Dunhill. For the reasons stated herein, the court will grant the motions to dismiss and deny Gossett's motion to transfer.

I. Factual background

A. Duke

Gossett applied for employment with Duke at its university hospital. On his employment application form and applicant skill sheet, Gossett refused to provide his social security number (SSN) and wrote "religious objection" in the space provided for the SSN. Without obtaining his SSN, Duke hired Gossett. At an orientation seminar, Duke told Gossett that without his SSN, Duke could not pay him. Gossett informed Duke he held a sincere religious belief that the SSN is "a universal identifier which is a reflection of the 'mark of the beast' as described in the Holy Bible." (Compl. 12.) Gossett informed Duke his religion forbids the revealing of his SSN.

Gossett told Duke how to satisfy reporting obligations without acquiring his SSN. However, Duke refused to follow these requests and fired him.

B. Dunhill

Dunhill hired Gossett as a consultant and entered into a one-year employment contract with him. After a few days of work, Dunhill asked Gossett for his SSN. Gossett told Dunhill of his religious objection to the SSN and refused to provide it. Dunhill fired Gossett. Gossett alleged that, in doing so, Dunhill violated his rights under Title VII, violated North Carolina's public policy, and breached their contract.

II. Discussion

A. Motion to Transfer Venue

Gossett has moved to transfer his case to the Eastern District of North Carolina under 28 U.S.C. 1406(1). He does not contend venue is improper in this court but, instead venue would be more proper in the Eastern District since the events giving rise to his claim occurred there.

Under 28 U.S.C. 1406(a), a district court has broad discretion to transfer or dismiss a case when venue is improper. Since Gossett does not argue improper venue, a motion under 28 U.S.C. 1404, which allows a court, in the interests of justice, to transfer a properly filed case would be appropriate. Gossett chose to file suit in this district and could have foreseen that venue would have been more appropriate in the Eastern District. See Nichols v. G.D. Searle & Co., 1991 F2d 1195, 1202 (4th cir. 1993) (holding that a district court does not abuse its discretion in denying a motion to transfer when the plaintiff's attorney could have reasonably foreseen venue would be proper elsewhere). Regardless, due to the court's disposition on Dunhill's motion to dismiss, the court will deny Gossett's motion to transfer.

B. Religious Discrimination Under Title VII

As an initial matter, Dunhill argues that this court lacks subject matter jurisdiction over Gossett's Title VII claim because at no time did Dunhill employ more than nine employees. Gossett argues Dunhill operates as an "employment agency," as defined by Title VII, and is therefore subject to its provisions. For purposes of this motion, the court will assume, without deciding, that Dunhill is covered by Title VII.

Dunhill and Duke have both moved under Fed. R. Civ. P. 12(b) (6) to dismiss the claims against them. A motion to dismiss should only be granted when, taking all the well pled allegations contained in the complaint as true, the plaintiff can prove no set of facts entitling him to relief. See Edwards v. City of Goldsboro, 178 F.3d 231, 244 (4th Cir. 1999).

Gossett alleges in his complaints that Dunhill and Duke failed to accommodate his religious beliefs. To establish a prima facie case for religious accommodation under Title VII, a plaintiff must prove three elements: (1) a bona fide religious belief that conflicts with an employment requirement; (2) the employer knew about the religious belief; (3) the employee suffered an adverse employment action for failing to comply with the employment requirement. See Chalmers v. Tulon Co. Of Richmond, 101 F.3d 1012, 1019 (4th Cir. 1996) (citations omitted). The burden then shifts to the employer to show that it could not accommodate the employee's religious beliefs without undue hardship. Id. (citations omitted). The undue hardship inquiry arises only when the employer claims it can offer no reasonable accommodation without such hardship. See Ansonia d. Of Educ. v. Philbrook. 479 U.S. 60, 68-69, 107 S. Ct. 367, 372 (1986). An employer suffers an undue hardship if the accommodation requires it to bear more than a de minimus burden. See Trans World Airlines, Inc. V. Hardison, 432 U.S. 63, 84, 97 S. Ct. 2264, 2277 (1977).

Courts have found an accommodation that causes employers to violate the law or subject them to penalties creates an undue hardship. See Seaworth v. Pearson, 203 F.3d 1056, 1057 (8th Cir. 2000); Sutton v. Providence St. Joseph Medical Ctr., 192 F.3d 826, 830-31 (9th Cir. 1999); United States v. Board of Educ. For the School Dist. Of Philadelphia, 911 F.2d 882, 891 (3d Cir. 1990); see also Weber v. Roadway Express, Inc., 199 F.3d 270, 273-74 (5th Cir. 2000) (citations omitted) (mere possibility of adverse impact on other employees sufficient).

A number of courts have addressed claims similar to Gossett's and have rejected them. In Seaworth, the plaintiff filed a Title VII action against his employer when it fired the plaintiff for refusing to provide his SSN. Seaworth, 203 F.3d at 1057. The plaintiff had a religious objection to revealing his SSN because it "represents the 'mark of the beast" as described in the Christian Bible's Book of Revelation." Id. The Eighth Circuit held the plaintiff's religious beliefs did not conflict with an employment requirement because the federal government imposed the requirement that the plaintiff provide his SSN. Id. Since the plaintiff could not establish his prima facie case, the court affirmed the judgment on the pleadings. Id. At 1058.

In Sutton, the employer asked the plaintiff to provide his SSN. The plaintiff said he had a religious objection to providing his SSN because he believed it was the "'[m]ark of the Beast' prophesied in the Book of Revelations [SIC] . . . ." Sutton, 192 F.3d at 829. The employer refused to hire the plaintiff. Id. At 830. The Ninth Circuit found the Internal Revenue Service requires employers to obtain an employee's SSN. Id. At 831. The court held forcing the employer to violate these laws would be an undue hardship. Id. Therefore, the court affirmed the dismissal of the plaintiff's complaint under Fed. R. Civ. P. 12(b) (6). Id.

Lastly, in Weber v. Leaseway Dedicated Logistics, Inc., 5 F. Supp.2d 1219 (D. Kan. 1998), aff'd 166 F.3d 1223 (10th Cir. 1999) (unpublished opinion), the plaintiff refused to give his employer his SSN due to his religious belief that the SSN reflected the 'mark of the beast as described in the Book of Revelations [SIC]." Id. At 1221. The court found the requirement to provide a SSN was not an employment requirement but was a requirement mandated by the Internal Revenue Service. Id. At 1222. Failure to report the SSN would subject the employer to penalties. Id. (citing 26 U.S.C. 6721-23). The court held the plaintiff had failed to establish his prima facie case and any accommodation would impose an undue hardship. Id. At 1222-23.

The cases before the court are no different from the cases discussed. Gossett objects to providing his SSN because he believes it conflicts with his sincere religious beliefs. As explained in the above cases, the federal government, not individual employers, imposes the requirement that employees have social security numbers.

Nevertheless, Gossett argues 26 U.S.C. 6109 does not require an employer to obtain an employee's SSN. That section provides that an employer "shall request" the SSN from the employee and "shall include" the SSN in any filing. 26 U.S.C. 6109(a) (1) - (3). This language is not permissive but mandatory. Under 26 C.F.R. 301-6109-1(b) (1), "[a] U.S. person whose number must be included on a document filed by another person must give the [SSN] so required to the other person on request." The regulations also provide the SSN "is required to be furnished under authority of law." 26 C.F.R. 301.6109-1(c). Further, Gossett argues 26 C.F.R. 301.6109-1© allows an employer to submit in place of the SSN a signed affidavit explaining the employer could not obtain the SSN. That section only applies to foreign persons; Gossett is a United States citizen. Since the necessity of a SSN is not an

employment requirement but a requirement imposed by federal law, Gossett cannot establish a prima facie case of religious discrimination under Title VII. Therefore, the motions to dismiss Gossett's Title VII claims will be granted.

C. Violations of North Carolina's Public Policy

The public policy established in North Carolina's Equal Employment Practices Act (EEPA), N.C. Gen. Stat. 143-422.2, is identical to that in Title VII. The North Carolina Supreme Court had adopted Title VII's evidentiary standards in evaluating claims under the EEPA. See North Carolina Dep't of Corrections v. Gibson, 308 N.C. 131, 148, 301 S.E.2d 78, 88 (1983). Even if North Carolina recognized the claim Gossett asserts, Gossett relies upon the same evidence to establish his EEPA claim. Therefore, this claim must be dismissed. See Henson v. Liggett Group, Inc., 61 F.3d 270, 277 (4th Cir. 1995) (affirming grant of summary judgment when plaintiff relied on same Title VII evidence to establish his EEPA claim).

III. Conclusion

For the reasons stated herein, the court will dismiss Gossett's claims that his termination for failure to provide his SSN violated Title VII and North Carolina public policy. Gossett's motion to transfer venue will also be denied. Since the court has dismissed Gossett's basis for federal court jurisdiction, the court declines to exercise jurisdiction over Gossett's breach of contract claim.

This 14th day of August, 2000.

Signed, J.L. Osteen
United States District Judge

JUDGMENT

FILED: March 29, 2001

UNITED STATES COURT OF APPEALS

for the

FOURTH CIRCUIT

No. 00-2225
CA-99-1008-1

JOHN GOSSETT

Plaintiff - Appellant

v.

DUNHILL OF CARY, INC., d/b/a Dunhill Professional Search of West Raleigh

Defendant - Appellee

JOHN GOSSETT

Plaintiff - Appellant

v.

DUKE UNIVERSITY MEDICAL CENTER

Defendant - Appellee

Appeal from the United States District Court for the
Middle District of North Carolina at Durham

In accordance with the written opinion of this Court filed this day, the Court affirms the judgment of the District Court.